Supreme Court, U.S.
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No. 99-1240

IN THE

Supreme Court of the United States

THE UNIVERSITY OF ALABAMA AT BIRMINGHAM, BOARD OF TRUSTEES, AND THE ALABAMA DEPARTMENT OF YOUTH SERVICES,

Petitioners,

v.

PATRICIA GARRETT AND MILTON ASH,

Respondents.

On Petition For A Writ Of Certiorari To The United States District Court, N.D. Alabama, Southern Division

REPLY BRIEF FOR PETITIONERS

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REPLY BRIEF FOR PETITIONER

Petitioners agree with the United States and the private respondents that the Court should grant question I of the petition, which addresses whether Title I and Title II of the Americans with Disabilities Act (ADA) permissibly abrogate the States' Eleventh Amendment immunity from suit.

In their briefs in opposition, the United States and the private respondents further recommend that the Court deny question II of the petition, which addresses a similar abrogation question with respect to section 504 of the Rehabilitation Act of 1973. While we agree with respondents that it is appropriate for now to restrict review to the ADA question raised in the petition, it seems more appropriate to hold question II of the petition rather than to deny it outright at this point in time. In the eyes of the United States Court of Appeals for the Eleventh Circuit, the same abrogation analysis applies to each federal statute, making it premature to deny question II while question I is being reviewed. At any rate, it is our understanding that limiting the scope of review of a petition operates to hold the remaining questions, not to deny them. *Cf. Piper Aircraft Co. v. Reyno*, 454 U.S. 235, 247 n.12 (1981); *see also* Robert L. Stern, et al., *Supreme Court Practice* § 5.10, at 244 (7th ed. 1993).

CONCLUSION

The petition should be granted.

Respectfully submitted,

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